

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

)
) MDL NO. 1456
) Civil Action No. 01-12257-PBS
)

THIS DOCUMENT RELATES TO:

)
) Judge Patti B. Saris
)

The City of New York, et. al.

)
) **March 4, 2008 Status Report**

v.

) **on Behalf of the City of New**
) **York and New York Counties**
)

Abbott Laboratories, et al.

)
)

The undersigned counsel for the Captioned-plaintiffs (hereinafter referred to as “The City of New York and Captioned New York Counties”) hereby submit the attached status report to the Court in accordance with the Court’s June 17, 2004 Procedural Order.

Date: March 4, 2008
New York, New York

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March 4, 2008 Status Report for the City of New York and Captioned New York Counties

Pending Motions

On December 21, 2007, plaintiffs filed a Motion to Compel Discovery from Defendant Boehringer Ingelheim Roxane Laboratories, Inc. Roxane's opposition was filed on January 11, 2008. Plaintiffs' reply was filed on January 25, 2008. The motion is *sub judice*.

On January 31, 2008, plaintiffs filed a Motion to Compel the Production of Data for the Designated FUL Drugs from Certain Defendants. This motion was filed in response to a letter received from Hogan & Hartson on January 23, 2008 purportedly on behalf of all defendants stating that the requested data would not be supplied. After plaintiffs' motion was filed, plaintiffs heard from numerous defendants that the Hogan & Hartson letter did not reflect their positions. On February 15, 2008, plaintiffs filed a Notice (i) of Withdrawal of Plaintiffs' Motion to Compel Production of Data for the Designated Full Drugs as to Certain Defendants; and (ii) that Plaintiffs No Longer Recognize BMS Counsel as Liaison Counsel for Discovery Purposes. Plaintiffs' motion remained outstanding only as to defendant AstraZeneca. On February 19, 2008, defendants AstraZeneca filed its Opposition to Plaintiffs' Motion to Compel Production of Data for the Designated FUL Drugs. Plaintiffs' reply was filed on February 29, 2008.

On February 19, 2008, defendants filed a Motion to Compel the Commissioner of the New York State Department of Health and Three Key Witnesses to Comply with Subpoenas. On March 4, 2008 plaintiffs and the New York State Attorney General will file their Opposition to Defendants' Motion and a Cross Motion to Quash these Same Subpoenas.

On February 27, 2008, defendants filed a Joint Motion to Compel the Production of Claims Data. On February 29, 2008, plaintiffs informed defendants that the requested claims data would be produced on or before March 21, 2008. Plaintiffs requested that defendants withdraw their motion to compel. That request is outstanding.

On February 29, 2008, plaintiffs and defendants filed a Joint Motion to Extend the Targeted Federal Upper Limit ("FUL") Discovery Period Provided for in CMO 33 by 90 Days.

Certificate of Service

I certify that on March 4, 2008 a true and correct copy of the foregoing March 4, 2008 Status Report was served on all Counsel of Record by electronic service pursuant to Case Management Order No. 2 by sending a copy to Lexis Nexis File and Serve for posting and notification to all parties.

/s/Aaron D. Hovan
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